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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,133	07/23/2003	Paul Kenneth Pickard	N0023/287661	9372

7590 01/17/2006

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EXAMINER

NEGRON, ISMAEL

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/626,133	Applicant(s) PICKARD ET AL.	
	Examiner Ismael Negron	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 21 and 25 is/are rejected.
- 7) ☒ Claim(s) 22-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on November 10, 2005 has been entered. Claims 2 and 3 have been amended. Claims 10-20 have been cancelled. Claims 21-25 have been added. Claims 1-9 and 21-25 are still pending in this application, with claims 1 and 25 being independent.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-6 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by WEGRZYN et al. (U.S. Pat. 6,019,477).
3. WEGRZYN et al. discloses an illumination device having:
 - **a housing (as recited in claims 1 and 25), as seen Figure 8;**
 - **the housing having at least one concavity (as recited in claims 1 and 25), Figure 8, reference number 90;**

- **the concavity being such that a movable optical assembly and a fixed optical assembly may be interchangeably mounted (as recited in claims 1 and 25), inherent as evidenced by Figure 14;**
- **the housing having a front portion (as recited in Claim 3),**
Figure 2, reference number 10;
- **the housing having a back portion (as recited in Claim 3),**
Figure 2, reference number 20;
- **the front and back portion being capable of being releasably coupled (as recited in Claim 3), column 2, lines 44-47;**
- **a chamber (as recited in Claim 3), as seen in Figure 8;**
- **the chamber being defined by the front and back portions when engaged (as recited in Claim 3), as seen in Figure 8;**
- **the chamber containing operational components of illumination device (as recited in Claim 3), as seen in Figure 8;**
- **the front and the back portion being unitary structures (as recited in Claim 4), as seen in Figure 8;**
- **the front and back portions being formed of a plastic material (as recited in Claim 4), column 4, lines 51-58;**
- **the front and the back portion snap-fit together (as recited in Claim 5), column 2, lines 44-47;**
- **the front portion including sloped projections (as recited in Claim 6), as seen in Figure 8;**

- **the back portion including receiving projections (as recited in Claim 6), as seen in Figure 8;**
- **the projections extending from an interior surface of the portions (as recited in Claim 6), as seen in Figure 8;**
- **surfaces of the sloped projections biasing against surfaces of the receiving projections upon engagement of the front and back portion (as recited in Claim 6), as evidenced in Figure 8;**
and
- **the engagement of the projections being for transferring weight associated with the front portion and the operational components to a structure of a building to which the back portion is mounted (as recited in Claim 6), inherent.**

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over WEGRZYN et al. (U.S. Pat. 6,019,477).

5. WEGRZYN et al. discloses an illumination device having:
- **a housing (as recited in claims 1 and 25), as seen Figure 8;**
 - **the housing having at least one concavity (as recited in Claim 1), Figure 8, reference number 90; and**
 - **the concavity being such that a movable optical assembly and a fixed optical assembly may be interchangeably mounted (as recited in Claim 1), inherent as evidenced by Figure 14.**

6. WEGRZYN et al. discloses all the limitations of the claims, except the concavity being angled downward.

7. It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to form the concavity of the housing of WEGRZYN et al. to be angled downward, since it has been held by the courts that a change in shape or configuration, without any criticality, is nothing more than one of numerous shapes that one of ordinary skill in the art will find obvious to provide based on the suitability for the intended final application. See *In re Dailey*, 149 USPQ 47 (CCPA 1976). In this case, using a concavity angled downward would have flown naturally if the device of WEGRZYN et al. was designed to be located above the intended target of illumination.

In addition, the Examiner takes Official Notice of applicant's statements regarding emergency illumination devices being generally configured to project light downwardly toward the floor when installed. See page 13 (lines 8-10) of applicant's response filed November 10, 2005.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over WEGRZYN et al. (U.S. Pat. 6,019,477).

9. WEGRZYN et al. discloses an illumination device having:

- **a housing (as recited in Claim 1), as seen Figure 8;**
- **the housing having at least one concavity (as recited in Claim 1), Figure 8, reference number 90; and**
- **the concavity being such that a movable optical assembly and a fixed optical assembly may be interchangeably mounted (as recited in Claim 1), inherent as evidenced by Figure 14;**
- **each concavity including a first opening (as recited in Claim 2), Figure 12, reference number 44; and**
- **the first opening being configured to receive a movable optical assembly when a movable optical assembly is mounted in the concavity (as recited in Claim 2), as seen in Figure 12.**

10. WEGRZYN et al. discloses all the limitations of the claims, except:

- each concavity also including a second opening (as recited in Claim 2); and
- the second opening being spaced apart from the first opening (as recited in Claim 2);
- the second opening being differently sized than the first opening (as recited in Claim 2);

- the second opening being configured to receive a fixed optical assembly is mounted in the concavity.

11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a second opening to each of the concavities of WEGRZYN et al. as desired or required by the particulars of a given application, since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Utilizing such second opening for receiving a portion of a fixed optical assembly was considered without patentable weight as it refers to the intended use of the second opening without structurally differentiating such second opening from the opening disclosed by WEGRZYN et al..

12. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over WEGRZYN et al. (U.S. Pat. 6,019,477) in view of COHEN (U.S. Pat. 3,302,918).

13. WEGRZYN et al. discloses an illumination device having:

- **a housing (as recited in Claim 1)**, as seen Figure 8;
- **the housing having at least one concavity (as recited in Claim 1)**, Figure 8, reference number 90;
- **the concavity being such that a movable optical assembly and a fixed optical assembly may be interchangeably mounted (as recited in Claim 1)**, inherent as evidenced by Figure 14;

- **the housing having a front portion (as recited in Claim 3),**
Figure 2, reference number 10;
- **the housing having a back portion (as recited in Claim 3),**
Figure 2, reference number 20;
- **the front and back portion being capable of being releasably coupled (as recited in Claim 3),** column 2, lines 44-47;
- **a chamber (as recited in Claim 3),** as seen in Figure 8;
- **the chamber being defined by the front and back portions when engaged (as recited in Claim 3),** as seen in Figure 8; and
- **the chamber containing operational components of illumination device (as recited in Claim 3),** as seen in Figure 8.

14. WEGRZYN et al. discloses all the limitations of the claims, except:

- the front portion receiving a printed circuit board (as recited in Claim 7);
- the circuit board including projections carrying electrical contact pads (as recited in Claim 7);
- the back portion mounting electrical contacts (as recited in Claim 7);
- the electrical contacts being connected to a power source (as recited in Claim 7);
- the power source being external to the housing (as recited in Claim 7);

- the back portion guiding the projections of the printed circuit board into engagement with the electrical contacts to form at least a portion of an electrical circuit, upon engagement of the front portion and the back portion (as recited in Claim 7).

15. COHEN discloses an illumination device having:

- **a housing (as recited in Claim 1), as seen in Figure 1;**
- **the housing having a top portion (as recited in Claim 1), Figure 2, reference number 13;**
- **the housing having a bottom portion (as recited in Claim 1), Figure 2, reference number 21;**
- **the housing including an interchangeably mounted illumination assembly (as recited in Claim 1), Figure 1, reference number 11;**
- **the top and bottom portions being releasably engaged (as recited in Claim 3), as evidenced by Figure 2;**
- **a chamber (as recited in Claim 3), as seen in Figure 2;**
- **the chamber being defined by the front and back portions when engaged (as recited in Claim 3), as seen in Figure 2;**
- **the chamber containing operational components of illumination device (as recited in Claim 3), as seen in Figure 2;**
- **the bottom portion receiving a terminal (as recited in Claim 7), Figure 2, reference number 25;**

- **the terminal including projections for carrying electrical contact pads (as recited in Claim 7), Figure 2, reference number 25a;**
- **the top portion mounting electrical contacts (as recited in Claim 7), Figure 2, reference number 17;**
- **the electrical contacts being connected to a power source (as recited in Claim 7), inherent;**
- **the power source being external to the housing (as recited in Claim 7), as evidenced by Figure 2;**
- **the top portion guiding the projections of the terminal into engagement with the electrical contacts to form at least a portion of an electrical circuit, upon engagement of the bottom and top portion (as recited in Claim 7), column 3, lines 28-35.**

16. It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to include the connecting means of COHEN in the illumination device of WEGRZYN et al. to be able to easily and rapidly install or remove the electrical components to the external power source, as per the teachings of COHEN (see column 1, lines 13-25).

17. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over WEGRZYN et al. (U.S. Pat. 6,019,477) in view of REYNOLDS (U.S. Pat. 6,129,440).

18. WEGRZYN et al. discloses an illumination device having:

- **a housing (as recited in Claim 1), as seen Figure 8;**
- **the housing having at least one concavity (as recited in Claim 1), Figure 8, reference number 90;**
- **the concavity being such that a movable optical assembly and a fixed optical assembly may be interchangeably mounted (as recited in Claim 1), inherent as evidenced by Figure 14;**
- **the housing having a front portion (as recited in Claim 3), Figure 2, reference number 10;**
- **the housing having a back portion (as recited in Claim 3), Figure 2, reference number 20;**
- **the front and back portion being capable of being releasably engaged (as recited in Claim 3), column 2, lines 44-47;**
- **a chamber (as recited in Claim 3), as seen in Figure 8;**
- **the chamber being defined by the front and back portions when engaged (as recited in Claim 3), as seen in Figure 8;**
- **the chamber containing operational components of illumination device (as recited in Claim 3), as seen in Figure 8;**
- **a test mechanism (as recited in Claim 8), column 2, lines 64 and 65;**

- **the test mechanism testing the status of operational components of the luminaire (as recited in Claim 8), column 2, lines 64 and 65;**
- **the test mechanism including a push button (as recited in Claim 8), Figure 1, reference number 38;**
- **the push button extending through an opening in the housing (as recited in Claim 8), as seen in Figure 1;**
- **a light source (as recited in Claim 8), Figure 1, reference number 40;**
- **the light source being disposed on a printed circuit board inside the housing(as recited in Claim 8), as evidenced by column 3, lines 1-5;**
- **a test switch dispose on the circuit board (as recited in Claim 8), column 3, lines 1-3;**
- **an element that engages the test switch upon depression of the push button (as recited in Claim 8), column 3, lines 1-3;**
- **the test switch initiating a test sequence (as recited in Claim 8), column 2, lines 64 and 65;**
- **the test mechanism including a base (as recited in Claim 8), Figure 1, reference number 36;**
- **an element that engages the test switch upon depression of the push button (as recited in Claim 8), column 3, lines 1-3;**

- **the push button, the base, and the element being integrally formed (as recited in Claim 9), as evidenced by Figure 1.**

19. WEGRZYN et al. discloses all the limitations of the claims, except:

- a test mechanism (as recited in Claim 8);
- the test mechanism testing the status of operational components of the luminaire (as recited in Claim 8);
- the test mechanism including a light-transmissive push button (as recited in Claim 8);
- the push button extending through an opening in the housing (as recited in Claim 8);
- the test mechanism including a light-transmissive base (as recited in Claim 8);
- the base being operable with the push button (as recited in Claim 8);
- a light emitting diode (as recited in Claim 8);
- the light emitting diode being disposed on a printed circuit board inside the housing (as recited in Claim 8);
- the base carrying light from the light emitting diode (as recited in Claim 8);
- a test switch disposed on the circuit board (as recited in Claim 8);
- an element that engages the test switch upon depression of the push button (as recited in Claim 8);

- the test switch initiating a test sequence (as recited in Claim 8);
- the push button, the base, and the element being integrally formed (as recited in Claim 9).

20. REYNOLDS discloses a switch operating structure having:

- **a push button (as recited in Claim 8), Figure 2D, reference number 20B;**
- **the push button including a light-transmissive base (as recited in Claim 8), Figure 2D, reference number 31E;**
- **the base being operable with the push button (as recited in Claim 8), as seen in Figure 2D;**
- **a light emitting diode (as recited in Claim 8), Figure 5, reference number 52;**
- **the light emitting diode being disposed on a printed circuit board inside a housing(as recited in Claim 8), as seen in Figure 5;**
- **the base carrying light from the light emitting diode (as recited in Claim 8), column 6, lines 8-13;**
- **a test switch dispose on the circuit board (as recited in Claim 8), Figure 5, reference number 50;**
- **an element that engages the test switch upon depression of the push button (as recited in Claim 8), column 5, lines 36-38;**

- **the push button, the base, and the element being integrally formed (as recited in Claim 9), as seen in Figure 3D.**

21. It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to use the push button structure of REYNOLDS in the illumination device of WEGRZYN et al. to provide such device with a push button having integrated illumination means to facilitate locating the push button and the simplify the push button/indicator light structure of WEGRZYN et al..

22. In addition, the examiner takes Official Notice that the use of LEDs is old and well known in the illumination art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute an LED for the light source in the system of WEGRZYN et al.. One would have been motivated since LEDs are recognized in the illumination art to have many desirable advantages, including reduced size, high efficiency, low power consumption, long life, resistance to vibrations, and low heat production, over other light sources.

Allowable Subject Matter

23. Claims 22-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

24. The following is a statement of reasons for the indication of allowable subject matter:

Applicant teaches a housing for emergency illumination units, such housing including at least one concavity, with each concavity having first and second openings; a larger opening configured to receive a fixed optical assembly, and a smaller opening spaced apart from the larger opening, such smaller opening being configured to received a movable optical assembly.

No prior art was found teaching individually, or suggesting in combination, all of the features of the applicants' invention, specifically the size relationship between the fixed optical assembly opening and the movable optical assembly opening, in combination with the recited structural limitations of the claimed invention.

Response to Arguments

25. Applicant's arguments filed November 10, 2005 have been fully considered but they are not persuasive.

26. Regarding the Examiner's rejection of Claim 1 under 35 U.S.C. 102(b) as being anticipated by WEGRZYN et al. (U.S. Pat. 6,019,477), the applicant argues that the cited reference fails to disclose all the features of the claimed invention, specifically a concavity that is part of the housing. The applicant further argues that not only there is no teaching or suggestion anywhere in the cited reference to use a fixed optical assembly with the patented housing structure, but also that such fixed optical structure would result in poor optical performance.

27. In response to applicant's arguments that WEGRZYN et al. failed to disclose individually, or suggest in combination, a concavity that is part of the housing, the applicant is respectfully advised that while the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allow. *In re American Academy of Science Tech Center*, 70 USPQ2d 1827 (Fed. Cir. May 13, 2004).

In this case, WEGRZYN et al. discloses a housing having a mounting member 90 (Figure 12), such member 90 forming a concavity for receiving lighting heads 42a-b (Figure 8). The mounting member 90 is attached to the housing by means of a bracket 80/tab 94 combination and a screw 98 (Figure 12). The mounting member 90 was broadly considered as part of the housing, such housing clearly including the claimed concavity.

In response to applicant's arguments that there is no teaching or suggestion anywhere in WEGRZYN et al. to use a fixed optical assembly with the patented housing

structure, and that such fixed optical structure would result in poor optical performance, the applicant is advised that such arguments are irrelevant, since the rejected claim merely recites the concavity having the **capacity** for receiving a fixed optical assembly (i.e. "may be interchangeably mounted"), not that it actually receives such fixed assembly.

It has been held by the courts that the recitation that an element is adapted to perform a function or serve in a given application is not a positive limitation, but only requires the ability to so perform. *In re Hutchinson*, 69 USPQ 138.

In this case, while it is true that WEGRZYN et al. is silent as to the patented housing being used with a fixed optical assembly, it is also a fact that a fixed optical assembly could be received in the concavity of the patented housing.

The applicant is further advised that the only structure defined by the claim language is a housing with a concavity.

28. Regarding the Examiner's rejection of Claim 2 under 35 U.S.C. 103(a) as being unpatentable over WEGRZYN et al. (U.S. Pat. 6,019,477), the applicant argues that the cited reference fails to disclose, or suggest, all the features of the claimed invention, specifically each concavity having two differently-sized and spaced apart openings. The applicant further argues that the concavity cited by the Examiner does not include an opening.

29. In response to applicant's arguments that WEGRZYN et al. fails to disclose, or suggest, concavities having two differently-sized and spaced apart openings, the

applicant is, once again, respectfully advised that claims in a pending application should be given their broadest reasonable interpretation.

In this case, WEGRZYN et al. discloses a cavity formed by the mounting member 90 and the housing, such cavity including an opening 44 through which lighting heads 42a-b extend (Figure 8). Adding a second opening for supporting a fixed optical assembly, was considered mere duplication of the patented opening.

30. Regarding the Examiner's rejection of Claim 3 under 35 U.S.C. 102(b) as being anticipated by WEGRZYN et al. (U.S. Pat. 6,019,477), the applicant argues that the cited reference fails to disclose, or suggest, all the features of the claimed invention, specifically the front and back portions of the housing being releasably coupled. The front and back portions of the patented housing, the applicant argues, are permanently coupled by straps 30 and 32, with such straps being attached to the front and back housing portions by screws.

31. In response to applicant's surprising arguments that WEGRZYN et al. fails to disclose, or suggest, the front and back portions of the housing being releasably coupled, the applicant is advised that screws are, by definition, removable fastening structures. Applicant's own admission that the front and back portions of the housing of WEGRZYN et al. are held together by means of screws is an admission that the argued limitation is, in fact, disclosed by WEGRZYN et al.. However, even if one were to consider screws as permanent coupling structures, WEGRZYN et al. still would anticipate the limitations presented in Claim 3.

WEGRZYN et al. discloses a housing including a front portion 10 and a back portion 20, such the front and back portions being releasably coupled by means of resilient latch members 26a-b, openings 28a-b and flanges 24a-b and slots 22a-b (see column 2, lines 44-47, and Figure 8). The coupling provided by the cited structure was considered to releasably couple the front and back portions of the housing of WEGRZYN et al..

In addition, the applicant is once again strongly advised that the use of language reciting the capabilities of the subject matter of the invention (e.g. "may be releasably coupled", see previous Section 21) does not constitute a positive limitation, but merely requires the ability to perform the recited function.

32. Regarding the Examiner's rejection of Claim 6 under 35 U.S.C. 102(b) as being anticipated by WEGRZYN et al. (U.S. Pat. 6,019,477), the applicant argues that the cited reference fails to disclose all the features of the claimed invention, specifically the front portion including sloped projections extending from an interior surface of the front portion.

33. In response to applicant's surprising arguments that WEGRZYN et al. fails to disclose, or suggest, sloped projections extending from an interior surface of the front portion, the applicant is respectfully directed to Figure 8 of the cited reference.

WEGRZYN et al. discloses a housing having a front portion 10 releasably secured to a back portion 20. The back portion 20 includes a plurality of rib members extending from its interior surface, one of such members including sloped projections

positioned on the central upper edge of the back portion 20, in between the tabs 24a and 24b (as seen in Figure 8).

34. Regarding the Examiner's rejection of Claim 7 under 35 U.S.C. 103(a) as being unpatentable over WEGRZYN et al. (U.S. Pat. 6,019,477) in view of COHEN (U.S. Pat. 3,302,918), the applicant argues that the cited reference fails to disclose, or suggest, all the features of the claimed invention, specifically a printed circuit board including projecting electrical contacts. The applicant further argues that the Examiner erred in asserting element 13 of COHEN as being a top portion of the housing. The applicant further argues that a printed circuit board is nowhere in the disclosure of COHEN and as such the rejection should be withdrawn.

35. In response to applicant's arguments against the references individually (i.e. attacking COHEN alone), the applicant is advised that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The applicant is further advised that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the

references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In the instant case, as detailed in section 8-12 of the instant Office Action, WEGRZYN et al. discloses all the limitations of the claim, except the general interconnecting structure feature by the claimed invention for electrically coupling the circuit board to an external power circuit. COHEN, on the other hand, features an illumination device having a housing (as seen in Figure 1), such housing including a first portion 13 positioned above ceiling 12, and a portion located below such ceiling 12. The housing includes means for quick-connection and disconnection to a power circuit, such means including a plurality of electrical contact pads projecting from the second portion of the housing, and a plurality of electrical contact sockets, located in the first portion 13, for receiving respective contact pads and forming part of an electrical circuits. See Figure 2 of COHEN.

Including the modular connector structure of COHEN in the illumination device of WEGRZYN et al. would have flown naturally to one of ordinary skill in the art at the time the invention was made to enable the from portion of the housing of WEGRZYN et al. to be easily and rapidly installed (or removed), as per the teachings of COHEN (see column 1, lines 13-25).

36. Regarding the Examiner's rejection of claims 4 and 5 under 35 U.S.C. 102(b) as being anticipated by WEGRZYN et al. (U.S. Pat. 6,019,477), the applicant present no arguments, except stating that such claims depend directly or indirectly from independent Claim 1 and would be allowable when/if the independent claim is allowed.

37. Regarding the Examiner's rejection of claims 8 and 9 under 35 U.S.C. 103(a) as being unpatentable over WEGRZYN et al. (U.S. Pat. 6,019,477) in view of REYNOLDS (U.S. Pat. 6,129,440), the applicant present no arguments, except stating that such claims depend directly or indirectly from independent Claim 1 and would be allowable when/if the independent claim is allowed.

Conclusion

38. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

39. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negron whose telephone number is (571) 272-

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2376. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached at (571) 272-2378. The facsimile machine number for the Art Group is (571) 273-8300.

41. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications maybe obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) toll-free at 866-217-9197.



Sandra O'Shea
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